

TREATED WOOD WASTE COMMENTS / LETTERS

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Wayne K. Horiuchi
Special Representative

May 15, 2006

Mr. William Beckman
Hazardous Substances Engineer
California Department of Toxic Substances Control
P.O. Box 806
Sacramento, CA 95812-0806

Re: Comments on the April 19th Draft Regulations on Treated Wood Waste

Dear Mr. Beckman:

Union Pacific Railroad recommends the following clarifications to the recent draft regulations for the management of treated wood waste (TWW) addressing Section 25150.7, AB 1353 of the California Health and Safety Code. Our purpose for addressing these draft regulations is due to the use of treated wood in our operations.

UP utilizes creosote treated railroad ties throughout our system to provide a safe and stable track bed for the movement of freight across our country. In order to maintain the track integrity critical to safe operations, we replace approximately 4 million ties each year. Many of the ties replaced in the main lines across the system, including those in the state of California, can be used for secondary or yard tracks. Others are used for structural applications. For the remaining ties, Union Pacific has identified the material use as fuel for energy generation as the best management practice. There are many states through which our railroad operates that encourage this approach as well. Since UP recycles and reuses these ties in the described ways across the entire system, the ties never become a waste product. Because the ties are not waste, they can not be regulated as such.

Our company is very diligent and expends enormous resources to protect our nation's environment. On the subject of determining if a material is hazardous or not, we have substantial documentation that creosote treated wood does not fail the criteria for hazardous waste by the USEPA as described in 40 CFR 261.20-.33. In addition, the processes have not changed in the use of railroad ties for the past century. Since it is the responsibility of the generator to determine if a material is hazardous, UP stands by and supports the documentation in our files. Because of this, we strongly suggest that creosote treated wood be exempt from the above listed regulations.

In our review of this legislation, we understand that DTSC has commissioned another study to test creosote treated wood to determine whether it is hazardous in the State of California. We have reviewed the protocol for collecting the samples and have some concerns on the methodology described. We also have seen a study where untreated Douglas fir has failed the California Non-RCRA acute aquatic toxicity hazardous waste characteristic.

Although we have no reason to believe that samples of weathered creosote treated wood, properly gathered and prepared, will fail testing, we believe it is prudent to request the following revisions to the proposed regulations to maintain our stated best management practices. We believe these amendments are consistent with the statute but are critical to clarify the intent of the regulations:

Section 67386.2

Applicability

(a) The alternative management standards of this article apply only to treated wood ~~hazardous~~ waste that meets all of the following:

(b) The alternative management standards of this article do not apply to ~~the~~ following treated wood ~~hazardous~~ waste:

(3) treated wood waste that is recycled, reclaimed, or reused, except as managed in accordance with the applicable requirements of chapter 6.5 of the Health and Safety Code; or

(5) treated wood waste that is designated to be burned in a licensed biomass power facility for the purpose of generating steam or electricity.

We appreciate the serious consideration of our proposed suggestions. Union Pacific believes that this suggested change will also alleviate the directed use of landfills which should only be used as a port of last resort for all unusable material.

Union Pacific will continue to support new technologies emerging across the country to reuse a vast quantity of materials including used ties. Technologies that are being researched for used ties include thermolysis where the treating oils are separated out for reuse and the use of treated biomass feedstock for gasification or ethanol production. Until such opportunities present themselves as viable reuse alternatives, we will continue to handle our material in accordance with our best management practices.

Please contact my office if you have further questions.

I am,

ORIGINAL SIGNED

ORIGINAL SIGNED

WAYNE K. HORIUCHI
Special Representative



SWANA[®]
SOLID WASTE ASSOCIATION
of North America

May 12, 2006

Department of Toxic Substances Control
Attn: William Beckman - Treated Wood Waste Workshop Comments
P.O. Box 806
Sacramento, California 95812-0806

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www.swanacal-leg.org

LEGISLATIVE ADVOCATES

PAUL J. YODER

YVETTE GOMEZ AGREDANO

Shaw/Yoder, Inc.

1415 L Street, Suite 200

Sacramento, CA 95814

(916) 446-4656

FAX (916) 446-4318

paul@shawyoder.org

yvette@shawyoder.org

CHAIR

R. SCOTT JOHNSTON

Merced County DPW

Solid Waste Division

2222 M Street, Room 206

Merced, CA 95340

(209) 385-7388

lrj@co.merced.ca.us

VICE CHAIR

GRACE CHAN

LA County Sanitation Districts

1955 Workman Mill Road

Whittier, CA 90601

(562) 699-7411 ext. 2402

gchan@lacsdsd.org

TREASURER

JOHN B. ABERNETHY

Sacramento County

9850 Goethe Road

Sacramento, CA 95827

(916) 875-4527

abernethyj@SacCounty.net

SECRETARY

MARK URQUHART P.E.

Shaw Environmental

& Infrastructure

1326 North Market Boulevard

Sacramento, CA 95834

(530) 626-4771

Mark.Urquhart@shawgrp.com

RE: Management of Treated Wood Waste (TWW) Proposed Regulations

Dear Mr. Beckman:

The Solid Waste Association of North America (SWANA) is composed of approximately 7000 public and private sector solid waste management professionals throughout North America dedicated to the development and enhancement of environmentally and economically sound practices and policies for the integrated management of municipal solid waste. There are approximately 900 members of SWANA in California. SWANA appreciates this opportunity to provide the Department of Toxic Substances Control (DTSC) with comments on the proposed Treated Wood Waste (TWW) proposed regulations. This latest version is more realistic than previous versions.

Specifically, our concerns address the following requirements:

- Classification of TWW as Universal Wastes
- Prohibition on commingling TWW with other wood wastes
- Extent of solid waste facility definition
- On-site storage time should be increased for all options
- The requirement for weekly recordkeeping is excessive
- Allow tracking of volume of TWW and reduce reporting burden

Although DTSC is required to develop regulations on TWW, these regulations should not be overly restrictive or burdensome to implement. SWANA has consistently maintained that treated wood waste and other newer defined hazardous wastes have not proven to be a threat in lined landfills. In particular chemicals from treated wood wastes have not been shown to be a significant leaching concern from lined landfills. This limited hazard from landfilling TWW in lined landfills would suggest that regulation as universal wastes would be more appropriate rather than creating another hazardous waste with special handling standards.

A major concern of these regulations is the proposed requirement to prohibit commingling the treated wood waste with other wood waste prior to disposal (Section 67386.3 (a)(3)). Class II and III landfills that have received approval to accept treated wood wastes should not be required to impose additional efforts for segregation prior to disposal since the wood waste will then be disposed of in the same landfill anyway. In addition, segregation of TWW from other wood waste during load checking activities is extremely difficult. This additional effort increases the cost of providing allowable disposal of TWW and imposes an unnecessary burden on landfill operators.

Another concern relates to the proposed definition of a solid waste facility. The proposed regulations are unclear how this term is used but if it is intended to cover non-landfill solid waste activities such as transfer station then it need to also include reference to solid waste operations that are not covered under the Public Resources Code 40194.

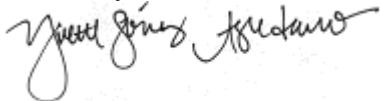
The accumulation time limits for Section 67386.6 (a)(2)(A) Block and Trap and (E) Other should be increased to at least 180 days to match the requirements for a containment pad.

The requirements for weekly recordkeeping to verify compliance is excessive and unnecessary (Section 67386.6(e)). Operators are already required to meet proposed labeling and other requirements. Imposing a log of compliance is not necessary.

Lastly, since many generators and remote locations do not have scales available at the time of shipment the proposed regulations should allow tracking by volume of TTW and not just weight. In addition, semi-annual reporting requirements are excessive and should be standardized with other annual reporting requirements.

Please contact us if you have any questions. Thank you again for this opportunity to provide comments on this proposal.

Sincerely, ORIGINAL SIGNED

A handwritten signature in black ink, appearing to read "Yvette Gomez Agredano", written over a faint, circular official stamp.

Yvette Gomez Agredano
Legislative Advocate
SWANA, California Chapters

cc: R. Scott Johnston, Chair, SWANA California Chapters Legislative Task Force
Mark Urquhart, Secretary, SWANA California Chapters Legislative Task Force



Western Wood Preservers Institute

7017 N.E. Highway 99, Suite 108 Vancouver, WA 98665 360/693-9958 Fax 360/693-9967 E-Mail:
info@wwpinstitute.org

May 15, 2006

William Beckman, Hazardous Substances Engineer
Department of Toxic Substances Control
1001 I Street
P.O. Box 806
Sacramento, California 95812-0806

Re: Treated Wood Waste April Workshop Comments

Dear Mr. Beckman,

The Western Wood Preservers Institute (WWPI) appreciates the opportunity to comment on the revised draft conceptual discussion regulations DTSC published for discussion at the April 26, 2006 workshop on Treated Wood Waste. As you know, WWPI is the Trade Association representing the Treated Wood industry in Western North America. As such, WWPI was a major participant in the drafting and passage of AB 1353 (Mathews, 2004).

We were most impressed with the significant improvements made in the April draft and complement you on having incorporated so many of the comments from interested groups. We also felt the April Workshop was a positive effort in identifying the remaining issues and appreciate the commitment of the agency to address the remaining concerns.

At the April meeting you requested that additional comments be specific in terms of suggested language changes. To that end our enclosed comments are in a red line format with specific language recommendations and brief explanatory notes. Our recommendations reflect the legislative intent for management standards and the foundation of the legislation which acknowledged that TWW presents "*unique circumstances*" (H&S Code Sect. 25150.7(a)) *that justify management of it in a less burdensome manner than "ordinary" hazardous waste.*

The central goal of our suggested changes was to assure adequate reporting and record keeping achieving the agency's objective for tracking the volume of treated wood being disposed, without setting up procedures which would discourage appropriate disposal by the casual lower volume generator. We have accomplished this through clarification of the definitions and utilization of the 5 ton standard.

We are optimistic that a next informal review draft will can meet the concerns of the various interested groups so that you can move forward with publication for public review and meet the scheduled implementation.

Sincerely ORIGINAL SIGNED

R. Dennis Hayward, Executive Director
Western Wood Preservers Institute

cc: Ms. Peggy Harris, Chief, Regulatory & Program Development Division
The Honorable Barbara Matthews, California State Assembly
Ms. Kathryn Lynch, Legislative Advocate, Lynch & Associates

Treated Wood Waste

May 15, 2006

§ 67386.1 Scope

- (a) This article provides an alternative set of management standards in lieu of Health and Safety Code, Chapter 6.5 requirements and implementing regulations as hazardous wastes under chapters 11, 12, 13, 14, 15, 16, 18, and 20 through 22 of this division for a person managing treated wood waste (TWW). All other chapters of this division apply.
- (b) Nothing in this article is a limitation on the power of this or any other governmental agency to adopt or enforce additional requirements related to the management of TWW.

§ 67386.2 Applicability

- (a) The alternative management standards of this article apply to waste treated wood only to hazardous waste that meets all of the following:
 - (1) that is designated a wood waste that meets the hazardous waste in California under the criteria of chapter 11 of this division; and
 - (2) wood waste that is a state hazardous waste in California solely due to the presence of preservatives subject to regulations under Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); and
 - (3) wood waste that is not subject to management standards under the federal Resource Conservation and Recovery Act (RCRA).
- (b) The alternative management standards of this article do not apply to following hazardous waste:
 - (1) wood waste exempted from hazardous waste standards by Health and Safety Code section 25143.1.5; or
 - (2) wood waste that is hazardous due to the presence of coatings, paint, or other treatments that are not regulated under FIFRA; or
 - (3) wood waste that is burned, recycled, reclaimed, or reused, except as managed in accordance with the applicable requirements of chapter 6.5 of the Health and Safety Code; or
 - (4) wood waste that is designated to be reused, but not in compliance with current FIFRA regulations; or
 - (5) wood waste that is designated to be burned.

NOTE: These changes are intended to eliminate any confusion between treated wood waste and other wood waste that does not meet the definition of TWW.

§ 67386.3 Prohibited Activities

- (a) Hazardous waste managed in accordance with the alternative management standards of this article shall not be:
- (1) burned;
 - (2) scavenged;
 - (3) if previously segregated, intentionally commingled with other wood waste prior to disposal;
 - (4) stored in contact with the ground;
 - (5) salvaged, reused, reclaimed, or recycled, with or without treatment, unless the reuse is consistent with the currently approved use of the preservative with which the wood has been treated;
 - (6) treated except in compliance with section 67386.10; and
 - (7) disposed to land except in compliance with section 67386.11.
- (b) Any label or mark that identifies the wood waste as TWW shall not be intentionally removed, obliterated, defaced, or destroyed prior to disposal in a landfill.

NOTE: This change is to address the comments at the last workshop that the concept of “commingling” was to only include the circumstance where the TWW had been previously separated from other waste and it cannot thereafter be intentionally commingled with other wood waste.

§ 67386.4 Definitions

The definitions set forth in section 66260.10 of this division shall apply unless otherwise defined. The following definitions shall apply to the terms used in this article:

“Resizing” means the minimal cutting, breaking, or sawing to facilitate transport, but does not include planing, grinding, chipping, sanding, shredding, mulching, or other mechanical handling or any treatment.

“Treated wood” means wood that has been treated with a chemical preservative for purposes of protecting the wood against attacks from insects, microorganisms, fungi, and other environmental conditions that can lead to decay of the wood and the chemical preservative is registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 and following).

“Treated Wood Waste” means, solely for the purposes of these regulations, material ~~a hazardous waste~~ that meets the applicability requirements of section 67386.2(a).

“TWW” means “Treated Wood Waste.”

“TWW handler” means a person who commercially handles, collects, processes, accumulates, stores, transfers, transports, resizes, ~~treats more than 5000 kilograms (5 tons) in any calendar year of~~ or disposes of TWW for disposal.

“TWW facility” means either a solid waste facility, as defined in this section, that is in compliance with this article or a class 1 hazardous waste landfill. TWW Facility shall not include composting facilities, gasification facilities, or transformation facilities.

“TWW approved landfill” means a either a class 1 hazardous waste landfill, or in a composite-lined portion of a solid waste landfill unit that meets all requirements applicable to disposal of municipal solid waste in California after October 9, 1993, and that is regulated by waste discharge requirements issued pursuant to Division 7 (commencing with Section 13000) of the Water Code for discharges of designated waste, as defined in Section 13173 of the Water Code, or treated wood waste and is in compliance with this section.

“Solid Waste Facility” means a permitted facility as defined in the Public Resources Code, section 40194 or a permitted solid waste landfill as defined in the Public Resources Code, section 40195.1

“Unit” means a pile, stack, container, bundle, or other discernable aggregation of TWW.

~~“Wood waste”~~

NOTE: The “Treated Wood Waste” definition is amended to clarify it’s application. The “TWW Handler” definition is amended to clarify that is applies to commercial operations annually handling more than 5 tons of TWW, and the word “treats” is replaced with

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“resizes” to reflect the intent stated by DTSC staff at the last workshop. The “Wood Waste” definition option is dropped as unnecessary, given the other clarifications.

§ 67386.5 Labeling

(a) TWW generated, accumulated, stored, or transported within California by TWW handlers or government agencies meeting the requirements of 67386.9-A shall be conspicuously labeled. The person controlling the TWW shall ensure that each unit and/or area designated for the accumulation of TWW is labeled. The area designated for accumulation of TWW shall be clearly identified and used solely for the accumulation of TWW.

(b) In order to clearly indicate the nature of the waste to the receiving party and/or any observer, the TWW shall be labeled or marked with the following:

“TREATED WOOD WASTE –Do not burn or scavenge.

TWW Handler Name and Address: _____

Accumulation Date: _____”

(b) The handler of TWW, managed in accordance with the alternative management standards of this article, shall ensure that labels are maintained in compliance with the requirements of subsections (a) and (b) during transport.

NOTE: These amendments are to clarify that labeling requirements only apply to TWW handlers who meet the threshold requirements of 5 tons handled annually.

§ 67386.6 Accumulation

(a) TWW material shall be maintained in a manner that prevents unauthorized access and minimizes release to the environment.

(1) Unauthorized access shall be prevented by means of visual control or a physical barrier when not under the direct control of the person responsible for the TWW.

(2) The TWW shall be accumulated in a manner that is protected from run-on and run-off, and placed on a surface sufficiently impervious to prevent, to the extent practical, contact with and leaching to soil or water, which may be accomplished by one of the following:

(A) Block and Tarp:

The TWW shall be accumulated such that;

- (i) TWW is elevated to prevent contact with the soil and protect from reasonably foreseeable run-on; and
- (ii) TWW is covered to protect from precipitation; and
- (iii) The TWW is accumulated no longer than 90 days; or

(B) Containerize:

The TWW shall be accumulated no longer than one year in containers that are;

- (i) designed, constructed, maintained, filled, its contents so limited, and closed, so that under conditions normally incident to handling, there will be no identifiable release of TWW materials or its constituents to the environment; and
- (ii) water-resistant if exposed to precipitation, run-on or run-off under reasonably foreseeable conditions and
- (iii) Full containers must be transported to an approved landfill within 90 days; or

(C) Storage Building:

The TWW shall be accumulated no longer than one year in a structurally sound building with a water-resistant floor and designed to prevent the movement of water into or out of the building; or

(D) Containment Pad:

The TWW shall be accumulated no longer than 180 days on a containment surface such that;

- (i) TWW does not contact soil;
- (ii) TWW is protected from reasonably foreseeable run-on; and
- (iii) TWW is covered to protect from precipitation.
- (iv) TWW managed in accordance with subsection (D) may be accumulated uncovered if the containment surface is designed and operated to contain all precipitation and the resulting water is managed in accordance with all applicable laws and regulations.

(E) Other:

The TWW shall be accumulated no longer than 90 days in any other manner in which the TWW handler can clearly demonstrate that the TWW is protected from run-on and run-off, and placed on a surface sufficiently impervious to prevent, to the extent practical, contact with and leaching to soil or water.

(b) Except as provided in subsection (c), in no case shall TWW be accumulated for more than one year from the date of generation.

(c) A handler may accumulate TWW for longer than one year from the date the TWW is generated or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of TWW as necessary to facilitate proper disposal. However, the handler bears the burden of proving that such activity was solely for the purpose of accumulation of such quantities of TWW as necessary to facilitate proper disposal.

(d) A person who accumulates TWW shall be able to demonstrate the length of time that the TWW has been accumulated from the date it becomes a waste or is received.

~~(e) A person accumulating TWW for more than fourteen (14) days shall ensure, on a weekly basis, compliance with the labeling and accumulation requirements pursuant to §67386.5 and §67386.6(a). A written record of inspections shall be kept for a period of three years and available for review upon request by the Department, the USEPA, or the Certified Unified Program Agency.~~

~~(f)~~ (e) Any entity, agency or business that employs workers to handle, collect, process, accumulate, store, transfer or, transport, or reuse treat, TWW for disposal. A business handling TWW shall provide training for employees. A record of the training shall be maintained for a period of three years and available for review. The training shall include:

- (1) All applicable requirements of the California Occupational Safety and Health Act of 1973 (Chapter 1 (commencing with § 6300) of Part 1 of Division 5 of the Labor Code), including all rules, regulations, and orders relating to hazardous waste;
- (2) procedures for identifying and segregating TWW;
- (3) safe handling practices;
- (4) requirements of the alternative management standards; and
- (5) proper disposal methods.

NOTE: (e) is deleted as unnecessary and burdensome. (f) is amended to clarify that both businesses and governmental agencies utilizing employees to handle TWW must train them.

§ 67386.7 TWW Off-Site Shipments

(a) Once treated wood has been determined to be a TWW the ~~A-TWW~~ handler is prohibited from sending or taking it ~~TWW~~ to a place other than a “TWW facility”, or a “TWW approved landfill.” However a TWW handler with more than one geographic location may concentrate TWW from multiple sites prior to sending it to the “TWW facility” or “TWW approved landfill.”

(b) Prior to sending a shipment of TWW to another TWW handler, the originating handler shall ensure that the receiving handler agrees to receive the shipment.

NOTE: These amendments clarify when the prohibitions apply and allow a handler with multiple sites to create one load from the various sites before the TWW must be transported to a TWW facility or approved landfill.

§ 67386.8 Tracking TWW Shipments

(a) Shipments ~~off-site~~. TWW Hhandlers and the receiving TWW facilities ~~A TWW handler~~ shall each keep records of each shipment sent to or received at a facility. ~~of TWW sent from the handler to TWW facilities~~. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. The record for each shipment of TWW ~~sent~~ shall include the following information:

- (1) The name and address of the originating handler and the receiving TWW facility ~~to which the TWW was sent~~;
- (2) The estimated weight of TWW , or the weight measured by the receiving facility; and ~~sent~~;
- (3) The date of the shipment or receipt ~~of TWW left the handler~~.

~~(b) Receipt of shipments. A TWW handler shall keep a record of each shipment of TWW received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of TWW received shall include the following information:~~

- ~~(1) The name and address of the originating TWW handler from whom the TWW was sent;~~
- ~~(2) The weight of TWW received; and~~
- ~~(3) The date of receipt of the shipment of TWW.~~

~~(b)~~ Reporting of receipt of shipments. A “TWW facility” or a “TWW approved landfill” that receive TWW shall submit semi annual reports for the periods ending June 30 and December 31 of each year beginning June 30, 2007 to the department 30 days after the end of each reporting period. The semi annual report shall be submitted in an electronic format provided by the department.

(1) Each semi annual report shall include the following information:

(A) Facility information

- (i) Facility name, location address, contact person’s name, and telephone number; and
- (ii) EPA identification number.

(B) For all TWW shipments received, other than those reported under subsections (C) and (D), the TWW facility shall report the following TWW handler information:

- (i) Handler name, address, contact person’s name, mailing address, and telephone number of each handler;
- (ii) The dates of shipments; and
- (iii) The weight of TWW per shipment.

(C) TWW household information:

- (i) Weight summary of all TWW quantities received that were generated by households.

(D) TWW load check information:

(i) Weight summary of all TWW quantities discovered and separated from solid waste as part of an on-site load checking program.

~~(F)~~(E) The department shall make all of the information in the quarterly reports submitted pursuant to this subdivision available to the public, through its usual means of disclosure, except the department shall not disclose the association between any specific TWW handlers and specific facilities. The list of TWW handlers served by a facility shall be deemed to be a trade secret and confidential business information for purposes of Health and Safety Code Section 25173 and Section 66260.2 of Title 22 of the California Code of Regulations.

(d) Record retention.

(1) A TWW handler shall retain the records described in subsection (a) of this section for at least three years from the date the shipment left the handler.

(2) A TWW facility shall retain the records described in subsection (b) of this section for at least three years from the date of receipt of a shipment.

NOTE: These amendments are intended only to make the requirements more readily understandable by combining the requirements of (b) into (a), with the exception of the change to (a)(2) which allows for an “estimate” of the weight of the TWW or the measured weight at a receiving facility.

§ 67386.9 Notification

(a) In any calendar year that a TWW handler generates more than 5,000 kilograms [\(5 tons\)](#) of TWW, the TWW handler shall obtain or maintain an EPA Identification Number. The TWW handler shall also send written notification to the Department within 30 days of meeting or exceeding the 5,000 kilogram limit.

(b) This notification shall include:

- (1) The TWW handler's name and mailing address;
- (2) The name and business telephone number of the person at the TWW handler's site who should be contacted regarding TWW management activities;
- (3) The address or physical location of the TWW management activities;
- (4) The year the TWW handler exceeded the 5,000 kilogram limit; and
- (5) A statement indicating that the handler is generating more than 5,000 kilograms of TWW per calendar year.

NOTE: “Tons” were added pursuant to comments at the last workshop.

§ 67386.10 Treatment

(a) Resizing is exempt from the permitting requirements of this division. When resized to facilitate transport, the TWW shall be:

- (1) handled in a manner that prevents the uncontrolled release of hazardous constituents to the environment; and
- (2) If size reduction results in TWW material smaller than one cubic inch, the TWW shall be accumulated and transported in a container that meets the requirement of section 67386.6(a)(2)(B).

(b) Sorting and segregating are both exempt from the permitting requirements of this division. The TWW shall be:

- (1) handled in a manner that prevents the uncontrolled release of hazardous constituents to the environment.

(c) A business performing resizing of TWW shall provide training for employees. A record of the training shall be maintained for a period of three years and available for review. The training shall include:

- (1) All applicable requirements of the California Occupational Safety and Health Act of 1973 (Chapter 1 (commencing with § 6300) of Part 1 of Division 5 of the Labor Code), including all rules, regulations, and orders relating to hazardous waste;
 - (2) procedures for identifying and segregating TWW;
 - (3) safe handling practices;
 - (4) requirements of the alternative management standards; and
 - (5) proper disposal methods.
-

§ 67386.11 Standards for disposal of TWW

(a) When disposed to land, TWW shall be disposed in either a Class I hazardous waste landfill, or in a composite-lined portion of a solid waste landfill unit that meets all requirements applicable to disposal of municipal solid waste in California after October 9, 1993, and that is regulated by waste discharge requirements issued pursuant to Division 7 (commencing with § 13000) of the Water Code for discharges of designated waste, as defined in § 13173 of the Water Code, or TWW.

(b) A solid waste landfill that accepts TWW shall comply with the following requirements:

- (1) Comply with the prohibitions in § 67386.3 for handling TWW;
 - (2) Ensure that any management of the TWW at the solid waste landfill prior to disposal complies with the applicable requirements of this article;
 - (3) Monitor the composite-lined portion of a landfill unit at which TWW has been disposed. When a release is verified, cease discharge of TWW to that landfill unit until corrective action results in cessation of the release. The landfill shall notify the department that TWW is no longer be discharged to that landfill unit and again when corrective action results in cessation of the release; and
 - (4) Handle TWW in a manner consistent with all applicable requirements of the California Occupational Safety and Health Act of 1973 (Chapter 1 (commencing with § 6300) of Part 1 of Division 5 of the Labor Code), including all rules, regulations, and orders relating to hazardous waste.
-

From: <phil@reesechambers.com>
To: <wbeckman@dtsc.ca.gov>
Date: 5/15/2006 4:11:42 PM
Subject: TWW comments

Dear Mr. Beckman,

Colmac Energy Inc. fully supports the proposed changes described in the Union Pacific Railroad letter to DTSC of May 15, 2006.

Thank you for your consideration.

Phil Reese
Director
Colmac Energy Inc.



CHAIR — BOB PICKARD, MARIPOSA COUNTY

VICE CHAIR — CHRISTY SCHOFIELD, COLUSA COUNTY

EXECUTIVE DIRECTOR — BRENT HARRINGTON

PROGRAM MANAGER — MARY PITTO

TECHNICAL ADVISORY GROUP CHAIR — STEVE ENGFER,
MARIPOSA COUNTY

May 15, 2006

Department of Toxic Substances Control
Attn: William Beckman - Treated Wood Waste Workshop Comments
P.O. Box 806
Sacramento, California 95812-0806

RE: Management of Treated Wood Waste (TWW) Proposed Regulations

Dear Mr. Beckman:

On behalf of its 22 member counties, the Rural Counties Environmental Services Joint Powers Authority (ESJPA) appreciates this opportunity to provide the Department of Toxic Substances Control (DTSC) with comments on the Treated Wood Waste proposed regulations. The revised regulations apply much more realistic requirements for handling TWW than in the previous version.

In addition to the specific recommendations below, the ESJPA is requesting that DTSC consider classifying TWW as universal wastes especially since the handling standards proposed are extremely similar to the current standards for universal wastes. This classification will greatly assist in reducing the burden of compliance. Classification as universal waste might also resolve some questions not addressed in the proposed regulations such as whether the amount of TWW is included in determining the generator status as either a conditionally exempt small quantity generator or large quantity generator.

Section 67386.3 (a)(3) Prohibited Activities

Landfills that have received approval to accept treated wood wastes should not be prohibited from commingling the treated wood waste with other wood waste prior to disposal. This would be an exceptionally difficult and expensive measure. Treated wood is difficult to detect under the best of circumstances. The prohibition would add additional complications to load checking efforts screening for treated wood when the treated waste wood can be disposed of in the same landfill.

Section 67386.4 Definitions

The definition for Solid Waste Facility should be expanded to also include Solid Waste Operations and Recycling Centers that are not considered facilities but do handle limited amounts of solid waste, construction and demolitions wastes, and recyclables. These types of activities may handle treated wood waste but are not included in the definition of a solid waste facility.

In addition, there is no definition of "Wood waste" included in the proposed regulations even though the term is listed in the proposed regulations.

Section 67386.5 (a) Labeling

The accumulation area should be limited to TWW if the receiving facility is allowed to accept mixed wood waste.

Section 67386.6 Accumulation

The accumulation time in Section (a)(2)(A) Block and Trap and (E) Other should be increased to at least 180 days to match the requirements for a containment pad.

The provision to allow containers to remain at the site until full is very reasonable.

The requirement in section (e) is not necessary and overly burdensome. Since the waste must be labeled at all times, a requirement to verify this is excessive and burdensome record keeping requirement.

Section 67386.7 TWW Off Site Shipment

This section does not address out of state disposal of TWW. Are they subject to these provisions since most states do not consider TWW as hazardous.

Section 67386.8 Tracking TWW Shipments

Many remote collection locations do not have scales and are unable to weigh loads shipped off site. This requirement should be revised to allow recording the volume instead of weight. Alternatively, the site may need to use a conversion factor.

In addition, the semi-annual reporting requirements are excessive. Most facilities have annual reporting requirements for other requirements and this reporting should be synchronized to match the other annual reporting standards.

Please contact us if you have any questions. Thank you again for this opportunity to provide comments on this proposal.

Sincerely, ORIGINAL SIGNED

ORIGINAL SIGNED
ORIGINAL SIGNED
ORIGINAL SIGNED

Mary Pitto
ESJPA Program Manger

cc: ESJPA Board of Directors

From: "Jolley, Steve" <sjolley@WM.com>
To: "William Beckman (E-mail)" <wbeckman@dtsc.ca.gov>
Date: 5/15/2006 4:09:19 PM
Subject: Union Pacific Comment Letter of May 15, 2006 RE: Draft Regs on TWW

Mr. Beckman:

As Fuel Manager for Wheelabrator Shasta Energy Co. in Anderson, CA, I would like to indicate our agreement with, and support for the Union Pacific Comment letter of May 15, 2006, RE: April 19th Draft Regulations on TWW (treated wood waste).

Thank you,

Stephen M. Jolley, Fuel Manager
Wheelabrator Shasta Energy Co.
PO Box 7000
Anderson, CA 96007

Ph.: 530-339-7626 (desk)
530-356-8626 (cell)

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENVIRONMENTAL ANALYSIS, MS 27
1120 N STREET
P. O. BOX 942874
SACRAMENTO, CA 94274-0001
PHONE (916) 653-7507
FAX (916) 653-7757
TTY (916) 653-4086



*Flex your power!
Be energy efficient!*

May 16, 2006

Ms. Peggy Harris
Chief
Regulatory & Program Development Division
Department of Toxic Substances Control (DTSC)
1001 I Street
P.O. Box 806
Sacramento, CA 95812-0806

Subject: Proposed Regulations for Management of Treated Wood Waste

Dear Ms. Harris:

Thank you for the opportunity to review the most recent draft on the regulations for Treated Wood Waste (TWW) dated April 19, 2006. Our comments on this version of the draft regulations are:

- **Section 67386.5 labeling**

The California Department of Transportation (Caltrans) believes there may be a potential conflict with federal transportation requirements, 49 CFR 172.401, regarding bulk transport. We ask bulk containers of TWW be exempt from DTSC labeling requirements when alternative identification methods are used (i.e. shipping papers in transportation).

- **Section 67386.6 (2)(E)(f) employee training.**

Is a government agency considered a "business," or is it exempt from this requirement?

- **Section 67386.9 – Notification**

Caltrans recommends DTSC to modify/clarify the reporting requirements as follows:

1. Modify the word "handler" in this section to "facility" or "site generator." Use of the word "handler" will result in duplicate reporting of the same waste.

Ms. Peggy Harris
May 16, 2006
Page 2

2. Change the measurement of kilograms to tons. TWW is measured and recorded in tons at weight scales.
3. Clarify if the "handlers" (facility) are required to submit an annual or one-time report to DTSC once the 5,000 kilogram limit is reached.
4. Clarify if "handlers" (facility) will be exempt from reporting once an Environmental Protection Agency identification (EPA ID) number is used.
5. If once an EPA ID number is used, does the TWW fall under the hazardous waste regulatory requirements for accumulation and transporting?

We appreciate the opportunity to provide these comments. If you have any questions, please contact Carlos Lopez of my staff at (916) 653-3548.

Sincerely, ~~ORIGINAL SIGNED~~

JAY NORVELL
Chief
Division of Environmental Analysis

From: <phil@reesechambers.com>
To: <wbeckman@dtsc.ca.gov>
Date: 5/17/2006 11:20:02 AM
Subject: TWW comments

Dear Mr. Beckman,

The California Biomass Energy Alliance, LLC (CBEA) is the trade organization of all of the 28 operating biomass-fueled electric generation plants in California, as well as 12 of the currently idle plants. The biomass plants provide almost 2% of the electricity used in the State. Information of CBEA may be found on our web site www.calbiomass.org.

Although only three of the California plants are permitted at this time to use railroad ties as part of their fuel mix, other plants may seek and obtain such permit authority as their fuel supply changes.

CBEA fully supports the proposed changes described in the Union Pacific Railroad letter to DTSC, regarding the regulation of treated wood wastes, of May 15, 2006.

Thank you for your consideration.

Phil Reese, Chairman
California Biomass Energy Alliance